Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Sections 90.631(g)	)	
and (h) of the Commission's Rules	)	
and Regulations Concerning Wide	)	RM- 8029
Area Specialized Mobile Radio	)	
and Business Radio Systems	)	

To: The Commission

PETITION FOR RULE MAKING
OF THE
NATIONAL ASSOCIATION OF BUSINESS
AND EDUCATIONAL RADIO, INC.

The National Association of Business and Educational Radio, Inc. (**"NABER"**) by its attorneys, respectfully submits, pursuant to Section 1.401 of the Commission's Rules, 47 C.F.R. §1.401, a Petition for Rule Making which seeks to amend Sections 90.631(g) and (h) of the Commission's Rules to provide for the licensing of wide-area private land mobile radio systems by Business Radio eligible entities and Specialized Mobile Radio Systems. In support thereof, the following is shown:

I. BACKGROUND

NABER is a national, non-profit, trade association headquartered in Alexandria, Virginia, that represents the interests of large and small businesses that use land mobile radio communications as an important adjunct to the operation of their businesses and that hold thousands of licenses in the private land mobile radio services. **NABER** has five membership sections representing Users, Private Carrier Paging licensees, Radio

Dealers, Technicians and Specialized Mobile Radio operators. **NABER's** membership comprises over 6,000 of these businesses and service providers holding thousands of licenses in the private land mobile services.

For the past 19 years, **NABER** has been the recognized frequency coordinator in the 450-470 MHz and 470-512 MHz bands for the Business Radio Service. **NABER** is also the Commission's recognized frequency coordinator for the 800 MHz and 900 MHz Business Pools, 800 MHz "old" conventional channels for Business eligibles and conventional SMR Systems, and for the 929 MHz paging frequencies. In its Report and Order in PR Docket No. 83-737, the Commission designated **NABER** as the frequency coordinator for all Business Radio Service frequencies below 450 MHz and, in a joint effort with the International Municipal Signal Association ("IMSA") and the International Association of Fire Chiefs ("IAFC"), the Special Emergency Radio Service frequencies.

Under current Commission rules, wide area systems are permitted for all categories of eligibles except SMR Systems. Further, remote stations in wide area systems licensed by Business Radio licensees are only authorized on a secondary basis. Regional SMR Systems are not permitted.

The "wide-area rule" is enforced by prohibiting a licensee in the Business or SMR Services from reusing the same frequencies less than seventy (70) miles away from its primary transmitter site, unless the initial system is fully loaded. Thus, if an SMR operator desires to construct a second SMR System sixty (60) miles

from the initial system (which is unloaded), the licensee may not reuse the same frequencies, and must instead use a different set of frequencies at the second site.

Alternatively, the SMR operator could license another site as a "secondary" site, using the same frequencies as the initial location. However, as a secondary site the would not receive any protection from interference from other co-channel systems. As a result, another system on the same frequency could be licensed by another operator ten (10) miles away from the secondary site (which would be 70 miles from the primary site).

II. PETITION FOR RULE MAKING

Today's mobile radio environment in the major urban areas is characterized by too many users crowding too few channels. Further, many users need a wider area of coverage, and often cannot be served by a single transmitter site alone. Therefore, SMR operators have begun to build wide-area SMR Systems.[1] Individual users such as Federal Express have also licensed wide-area systems. However, the development of wide-area systems by SMR operators which do not have enough loading has been hampered by Section 90.631.

Section 90.631 has the effect of requiring SMR and Business Systems with a need for wide-area coverage but without enough loading to use different frequencies at distances of 41 to 69 miles

[1]See, for example, the wide-area service proposals of Fleet Call, Inc., Advanced Mobile Communications of Florida, Inc., Mobile Radio New England, RAM/AMDC, Millicom and ARDIS.

from the primary transmitter site.[2] However, requiring entities with wide-area service needs to utilize different frequencies is spectrally inefficient, as it eliminates channels which may have otherwise been assigned to other entities. NABER believes that the Commission should encourage entities to reuse the original set of channels wherever possible, thereby preserving other frequencies for other users.

As new digital radio equipment is introduced into the private radio marketplace, additional users and additional uses for radio will further congest scarce spectrum. The changeout of old equipment to new digital equipment also gives the private radio users an opportunity to reconfigure their systems during implementation to construct more spectrum efficient systems. One aspect of this reconfiguration is the ability to employ frequency reuse to increase system capacity and improve coverage. However, regulatory hurdles inhibit the ability for licensees to realize the full benefits which digital technology may bring.

On this basis, NABER requests that the Commission amend Sections 90.631(g) and (h) to provide that SMR operators may construct wide-area systems using the same frequency (provided that

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[2]Pursuant to Section 90.627(b) of the Commission's Rules, licensees of 800 MHz may license another system at a distance of greater than 40 miles from the site of the original transmitter, regardless of the system's loading. Alternatively, Business Radio licensees may reuse the same frequencies at multiple location. However, only one site is considered primary by the Commission, with the remaining sites considered secondary. Secondary operation for the remaining sites means that the system may not cause, and must accept, interference from other co-channel systems. Since the sites are not protected from interference, this option is unacceptable for most users.

there is no violation of the "40 mile rule") and Business licensees may operate wide-area systems without the secondary restriction. It is NABER's belief that the rule change will spur the development of additional wide-area systems without significantly reducing the available pool of frequencies. Further, it removes a regulatory burden from licensees (licensing different frequencies at each site) which is unnecessary in the mature land mobile radio market which has developed.

Finally, it should be emphasized that NABER's proposed rule change is not intended to impact ESMR or ASMR-type systems. Since such systems are based upon the "aggregate loading" of the system over a wide "footprint" area, Section 90.631(g) in its present form does not pose an impasse to the grant of ESMR or ASMR applications. Rather, the NABER proposed rule change will enable licensees which do not have "aggregate loading" to relicense the same frequency 45 miles from its primary transmitter, instead of alternate frequencies. The rule change does not change **where** an entity may license frequencies (since the 40 mile rule still will apply), but adds flexibility to the licensee to permit licensing of the **same** frequency at the remote site.

III. CONCLUSION

WHEREFORE, the National Association of Business and Educational Radio, Inc. respectfully requests that the Commission adopt a Notice of Proposed Rule Making and amend Section 90.631(g) and (h) of its rules consistent with this Petition.

Respectfully submitted,

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